

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT WINCHESTER**

UNITED STATES OF AMERICA)	
)	Case No. 4:16-cr-11
v.)	
)	Judge Travis R. McDonough
CODY MARSHALL)	
)	Magistrate Judge Susan K. Lee
)	

ORDER

Magistrate Judge Susan K. Lee filed a report and recommendation recommending that the Court: (1) grant Defendant's motion to withdraw his not guilty plea as to Count One of the twelve-count Indictment; (2) accept Defendant's guilty plea as to as to the lesser included offense of the charge in Count One of the Indictment, that is of conspiracy to distribute and possess with intent to distribute five grams or more of methamphetamine (actual), a Schedule II controlled substance, in violation of 21 U.S.C. §§ 846, 841(a)(1), and 841(b)(1)(B); (3) adjudicate the Defendant guilty of lesser included offense of the charge in Count One of the Indictment, that is of conspiracy to distribute and possess with intent to distribute five grams or more of methamphetamine (actual), a Schedule II controlled substance, in violation of 21 U.S.C. §§ 846, 841(a)(1), and 841(b)(1)(B); (4) defer a decision on whether to accept the plea agreement until sentencing; and (5) order that Defendant remain in custody until sentencing in this matter (Doc. 70). Neither party filed a timely objection to the report and recommendation. After reviewing the record, the Court agrees with Magistrate Judge Lee's report and recommendation. Accordingly, the Court **ACCEPTS** and **ADOPTS** the magistrate judge's

report and recommendation (Doc. 70) pursuant to 28 U.S.C. § 636(b)(1) and **ORDERS** as follows:

1. Defendant's motion to withdraw his not guilty plea as to the lesser included offense of the charge in Count One of the Indictment, that is of conspiracy to distribute and possess with intent to distribute five grams or more of methamphetamine (actual), a Schedule II controlled substance, in violation of 21 U.S.C. §§ 846, 841(a)(1), and 841(b)(1)(B) of the Indictment is **GRANTED**;
2. Defendant's plea of guilty to the lesser included offense of the charge in Count One of the Indictment, that is of conspiracy to distribute and possess with intent to distribute five grams or more of methamphetamine (actual), a Schedule II controlled substance, in violation of 21 U.S.C. §§ 846, 841(a)(1), and 841(b)(1)(B) is **ACCEPTED**;
3. Defendant is hereby **ADJUDGED** guilty of the lesser included offense of the charge in Count One of the Indictment, that is of conspiracy to distribute and possess with intent to distribute five grams or more of methamphetamine (actual), a Schedule II controlled substance, in violation of 21 U.S.C. §§ 846, 841(a)(1), and 841(b)(1)(B);
4. A decision on whether to accept the plea agreement is **DEFERRED** until sentencing; and
5. Defendant **SHALL REMAIN** in custody until sentencing in this matter which is scheduled to take place on **February 10, 2017 at 2:00 p.m. [EASTERN]** before the undersigned.

SO ORDERED.

/s/Travis R. McDonough

TRAVIS R. MCDONOUGH
UNITED STATES DISTRICT JUDGE